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SMITH'S FOOD & DRUG CENTERS, INC.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

ROY V. MITCHELL, an individual,

Plaintiff,

vs.

SMITH'S FOOD & DRUG CENTERS, INC.,
a Foreign Limited-Liability Company; DOES
I-X, inclusive; and ROE BUSINESS
ENTITIES I-X, inclusive;

Defendants.

Case No. 2:24-cv-02113-APG-BNW

**STIPULATED DISCOVERY PLAN AND
SCHEDULING ORDER**

**SPECIAL SCHEDULING REVIEW
REQUESTED**

COMES NOW Defendant SMITH'S FOOD & DRUG CENTERS, INC., ("SMITH'S") by and through its counsel, JERRY S. BUSBY, ESQ., of the law firm COOPER LEVENSON, P.A. and Plaintiff ROY V. MITCHELL, by and through his counsel, COLTON J. WILSTEAD, ESQ. of the law firm DEEVER CRAFTON, and hereby submit this Stipulated Discovery Plan and Scheduling Order.

Fed.R.Civ.P. 26(f) Conference.

Counsel for the parties participated in a Rule 26 Discovery Conference on December 3, 2024. The conference was attended by Cole J. Wilstead, Esq. for Plaintiff and Jerry S. Busby, Esq. for Defendant. At the conference, there were no discovery disputes at that time. The parties agree to exchange their disclosure statements in a timely manner. Counsel are requesting nine months to complete discovery and be prepared for trial. More specifically, counsel request 270 days from the

1 date of removal to complete discovery.

2 The parties jointly request nine months for discovery for several reasons. First, due to the
3 holiday season, counsel anticipate that it will be difficult to effectively conduct discovery until after the
4 first of the year. Further, counsel for Defendant were involved in two trials in November 2024 and were
5 unable to begin discovery previously. Additionally, Plaintiff is still receiving medical treatment and
6 considering future treatment making it difficult for the parties to retain experts and have them opine on
7 issues related to damages when the full extent of Plaintiff's claim for damages is not yet known.

8 Based upon the above, the parties request nine months for discovery under the discovery
9 schedule set forth below.

10 1. **Discovery Cut-Off Date:** The parties are requesting 271 days for discovery from
11 November 13, 2024, the date of removal. Thus, the parties request a discovery cut-off date of
12 August 11, 2025.

13 2. **Amending the Pleadings and Adding Parties:** The parties request that all motions
14 to amend the pleadings or to add parties be filed no later than May 13, 2025 – 90 days prior to the
15 proposed close of discovery.

16 3. **Fed.R.Civ.P. 26(a)(2) Disclosures (Experts):** The parties request the disclosure of
17 experts be made on or before June 12, 2025 – 60 days before the proposed discovery cut-off date.
18 Disclosure of rebuttal experts shall be made by July 14, 2025 – 32 days after the initial disclosure of
19 experts.

20 4. **Dispositive Motions:** The date for filing dispositive motions shall be no later than
21 September 10, 2025 – 30 days after the proposed discovery cut-off date. In the event that the
22 discovery period is extended from the discovery cut-off date set forth in this proposed Discovery
23 Plan and Scheduling Order, the date for filing dispositive motions shall be extended to be not later
24 than 30 days from the subsequent discovery cut-off date.

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1 5. **Pretrial Order:** The date for filing the joint pretrial order shall not be later than
2 October 10, 2025 – 30 days after the cut-off date for filing dispositive motions. In the event that
3 dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until 30
4 days after decision on the dispositive motions or until further order of the court. In the further event
5 that the discovery period is extended from the discovery cut-off date set forth in this Discovery Plan
6 and Scheduling Order, the date for filing the joint pretrial order shall be extended in accordance with
7 the time periods set forth in this paragraph.

8 6. **Fed.R.Civ.P. 26(a)(3) Disclosures:** The disclosures required by Fed.R.Civ.P.
9 26(a)(3), and any objections thereto, shall be included in the joint pretrial order.

10 7. **Alternative Dispute Resolution:** Counsel for the parties certify that they met and
11 conferred about the possibility of using alternative dispute resolution including mediation, arbitration
12 and/or an early neutral evaluation. The parties agree that an early neutral evaluation would not be
13 effective at this time as the parties and their counsel believe that it is necessary to conduct discovery
14 before attempting to resolve this case. Counsel further agree that a settlement conference or private
15 mediation will be beneficial after discovery is concluded. Finally, the parties and their counsel are
16 not interested in submitting this case to arbitration, at this time.

17 8. **Alternative Forms of Case Disposition:** The parties certify that they discussed
18 consenting to trial by a magistrate judge or engaging in the Short Trial Program under Fed. R. Civ.
19 P. 73 and at present do not consent to either alternative form of case disposition.

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1 9. **Electronic Evidence:** The parties certify that they have discussed and intend to use
2 electronic evidence at the trial of this matter and will ensure that said evidence is in an electronic format
3 compatible with the Court's electronic jury evidence display system. At present, the parties have not
4 agreed upon any stipulations regarding use of electronic evidence but will address this issue again in the
5 Pre Trial Order.

6 Respectfully submitted this 17th day of December, 2024.

7 DEAVER CRAFTON

COOPER LEVENSON, P.A.

8
9 /s/ Colton J. Wilstead

/s/ Jerry S. Busby

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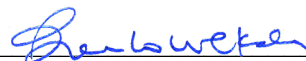
Attorneys for Defendant

17 ROY V. MITCHELL

SMITH'S FOOD & DRUG CENTERS, INC.

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20 **ORDER**

21 IT IS SO ORDERED:

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25 UNITED STATES MAGISTRATE JUDGE

26 DATED: 12/18/2024